

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,
 Plaintiff
 v.
 Everly James,
 Defendant

Case No.: 2:17-cr-00180-JAD-PAL

**Order Adopting Reports and
 Recommendations, Denying Everly
 James's Motions to Dismiss Indictment
 and Suppress Evidence**

[ECF Nos. 203, 267, 335, 359, 380]

Defendant Everly James is an alleged co-conspirator in an organized rental-car-theft ring. James is accused of producing false ownership documents to assist in the criminal enterprise, and one of his bases of operations was a hotel room at a Red Roof Inn in Arizona. James moved to suppress evidence obtained from that hotel room and any fruits of that search, arguing that the search warrant was the product of perjury.¹ Without conceding the merits of the suppression motion, the Government represented that it wouldn't introduce any evidence obtained from that search in its case-in-chief.² James then moved to dismiss the indictment against him, arguing that, if the hotel evidence is excluded, then there is no other evidence to link him to the enterprise, and the grand jury's indictment is based on perjury.³

A. Dismissal Motion [ECF No. 267]

Magistrate Judge Peggy Leen reviewed James's suppression and dismissal motions and recommends that the suppression motion be denied as moot⁴ and the dismissal motion be denied on its merits.⁵ Judge Leen's recommendation on the dismissal motion was entered on May 4,

¹ ECF No. 203.

² ECF No. 254.

³ ECF No. 267.

⁴ ECF No. 359. Judge Leen initially denied the suppression motion as moot, ECF No. 272, but then vacated that order and issued an amended order recommending that I deny it as moot. ECF No. 359.

⁵ ECF No. 335.

2018, making May 18, 2018, the deadline to file objections.⁶ That deadline was extended to June 1, 2018.⁷ That extended deadline came and went, and James filed no objection. “[N]o review is required of a magistrate judge’s report and recommendation unless objections are filed.”⁸ So, I accept and adopt Magistrate Judge Leen’s recommendation and deny James’s motion to dismiss.

B. Suppression Motion [ECF No. 203]

Judge Leen’s amended order and recommendation on the suppression motion was entered on June 6, 2018, making June 20, 2018, the deadline to file objections.⁹ James objects to that recommendation because the evidence was suppressed by the Government’s concession and not as a result of a *Franks* hearing.¹⁰ James’s four-line objection identifies no error and offers no legal basis to reject Judge Leen’s recommendation and merely states: “Mr. James has requested that [his counsel] file an Objection to the Report and Recommendation and requests this Court to hold a Franks Hearing.”¹¹ Because the Government has already agreed not to offer any evidence or fruits obtained from that hotel-room search, there is no reason to hold a *Franks* hearing as James already has the relief that a *Franks* hearing might afford. I therefore accept and adopt Magistrate Judge Leen’s recommendation and deny James’s suppression motion as moot.

Accordingly, IT IS HEREBY ORDERED THAT Magistrate Judge Leen’s reports and recommendations [ECF Nos. 335, 359] are **ACCEPTED and ADOPTED**. James’s motion to dismiss indictment [ECF No. 267] is **DENIED**. James’s objection to Magistrate Judge Leen’s . . .

⁶ *Id.*

⁷ ECF Nos. 346 (stipulation for extension of time), 350 (order).

⁸ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

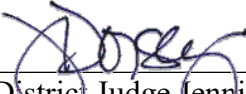
⁹ ECF No. 359.

¹⁰ ECF No. 380.

¹¹ *Id.*

1 recommendation [ECF No. 380] is **OVERRULED**. And James's motion to suppress [ECF No.
2 **203**] is **DENIED** as moot.

3 Dated: July 20, 2018

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5 U.S. District Judge Jennifer A. Dorsey